

**CITY OF UPLAND
PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of June 30, 2023 (Effective Date") by and between the City of Upland, a public agency organized and operating under the laws of the State of California with its principal place of business at 460 N. Euclid Avenue, Upland, CA 91786 ("City"), and Robert Half International, a corporation, by and through its administrative & customer service and finance & accounting contract talent practice groups with its location at 3633 Inland Empire Blvd, Suite 955, Ontario, CA 91764-4922 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

- A. City is a public agency of the State of California and needs staff augmentation services.
- B. Consultant has the necessary qualifications to provide such services.
- C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit "A."

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B."

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of \$67,000. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a weekly billing basis.

c. The City Manager may approve Additional Work, as further defined in Section 3, up to six thousand and seven hundred dollars (\$6,700). In no event shall the total sum of the agreement (original compensation amount and Additional Work) exceed seventy-three thousand seven hundred dollars (\$73,700). Any additional work more than this amount shall be approved by the City Council.

d. Notwithstanding anything to the contrary in this Agreement, Consultant may at any time, in its sole discretion, discontinue performance of the services once the Not-to-Exceed Amount has been attained (even if Consultant continued to provide services after the Not-to-Exceed Amount was reached).

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City. This audit provision shall not apply to confidential information, including but not limited to, Consultant's Professional's personnel files or the remuneration paid by Consultant to its Professionals and subcontractors.

5. Term

The term of this Agreement shall begin on July 1, 2023, and continue for a period of one year, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement.

6. Reserved

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government applicable to its staff augmentation services.

8. Standard of Care

Consultant's staff augmentation services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Contractor

a. Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

b. City shall supervise Professionals providing services to City. City shall not permit or require Professionals (i) to perform services outside of the scope of Professional's assignment; (ii) to sign contracts or statements (including SEC documents); (iii) to make any management decisions; (iv) to make any final decisions regarding system design, software development or the acquisition of hardware or software; (v) to sign, endorse, wire, transport or otherwise convey cash, securities, checks, or any negotiable instruments or valuables; (vi) to use computers, or other electronic devices, software or network equipment owned or licensed by Professional; (vii) to operate machinery (other than office machines) or automotive equipment. City may request that Consultant permit its Professionals to provide services to City remotely (i.e., from a location other than City's offices) using City's or Consultant's laptop and/or other computer or telecommunications equipment (the "Equipment"). City acknowledges and agrees that Consultant shall have no control over, and City shall be solely responsible for, (i) the logical and physical performance, reliability and security of the Equipment or related devices, network accessibility and availability, software, services, tools and e-mail accounts (collectively, "Computer Systems") used by the Professional, and (ii) the security, integrity, and backing up of the data and other information stored therein or transmitted thereby. Moreover, City must not permit Professional to save or store any of the City's files or other data on the Computer Systems provided by Consultant (including, but not limited to, any virtual desktop infrastructure solution). City agrees that Consultant shall not be liable for any loss, damage, expense, harm, business interruption or inconvenience resulting from the use of such Computer Systems. Since Consultant is not a professional accounting firm, City agrees that City will not permit or require Professional (a) to render an opinion on behalf of Consultant or on City's behalf regarding financial statements; (b) to sign the name of Consultant on any document; or (c) to sign their own names on financial statements or tax returns.

c. It is understood that City has full responsibility for: (i) providing safe working conditions as required by law, including compliance with all public health and occupational safety regulations and guidelines applicable to City's business, and (ii) ensuring that safety plans exist for, and safety related training is provided to, Professionals working on City's premises.

d. PERS Eligibility Indemnification

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to

any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance.

(ii) Reserved.

(iii) Commercial General Liability Insurance must include coverage.

for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Contractual Liability
- (6) Property Damage

(iv) The policy shall contain no endorsements or provisions limiting

coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) products/completed operations liability.

(v) The policy shall give City, its officials, officers, employees, agents and City designated volunteers additional insured status.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, and provided that such deductibles shall not apply to the City as an additional insured.

b. Reserved

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the

"Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession in an amount indicated herein.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Employer's Liability	\$1,000,000 per accident or disease
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall provide the City with evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include Certificate of Insurance. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, the additional insureds as required hereunder, where appropriate, the type and amount of the insurance, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at the City's request.

(ii) The Commercial General Liability Policy shall contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) Reserved.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide a waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) Reserved.

(iii) Reserved

(iv) City officials, officers, employees, agents or volunteers shall not be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant,

City may approve different scopes or minimum limits of insurance for subcontractors or subconsultants.

12. Indemnification.

a. Consultant agrees to defend, indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any negligent acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, or this Agreement, including without limitation the payment of damages, reasonable expert witness fees and reasonable attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

13. Reserved.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Reserved.

16. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

17. Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. City shall pay all invoices of Consultant for work performed by Professionals prior to termination.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City.

18. Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed by an assigned Professional for the City shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

19. Reserved

20. Reserved.

21. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

DISTRICT:

City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attn: Michael Blay, City Manager

CONSULTANT:

Robert Half International Inc.
Attn: Regional Vice President
3633 Inland Empire Blvd, Suite 955
Ontario, CA 91764-4922
With a copy to: Client Contracts Dept.
Bishop Ranch 3, 2603 Camino Ramon
San Ramon, CA 94583

and shall be effective upon receipt thereof.

22. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25. Severability

The unenforceability, invalidity, or illegality of any provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid or illegal.

26. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either Party unless such waiver is specifically specified in writing.

28. Time of Essence

Time is of the essence for each and every provision of this Agreement.

29. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers.

30. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31. Reserved.

32. Additional Terms

a. If City requires Consultant to perform background checks or other placements screenings of Professionals, City agrees to notify Consultant prior to the start of services under this Agreement. Consultant will conduct such checks or screenings only if they are described in a signed, written amendment to this Agreement. If City requests a copy of the results of any checks conducted on Consultant's Professionals, City agrees to keep such results strictly confidential and to use such results in accordance with applicable laws and solely for employment purposes.

b. In the event City wishes to convert any of Consultant's Professionals, City agrees to pay a conversion fee in accordance with this Section. The conversion fee will equal 30% of the Professional's aggregate annual compensation, including bonuses, for assignments through Consultant's administrative & customer service practice group, and 35% of the Professional's aggregate annual compensation, including bonuses, for assignments through Consultant's finance & accounting contract talent practice group. City agrees to pay a conversion fee if Consultant's Professional is hired by an affiliate or other related business entity because of City's subsequent referral of the Professional or one of City's customers as a result of Professional

providing services to the customer. The conversion fee is payable if City hires the Professional, regardless of the job classification, on either a full-time, temporary (including temporary assignments through another agency) or consulting basis within twelve months after the last day of the assignment. The same calculation will be used if City converts Consultant's Professional on a part-time basis using the full-time equivalent salary; however, the conversion fee will not be less than \$1,000.

c. Notwithstanding any language in this Agreement to the contrary (including any references to fixed-price, deliverables, acceptance of deliverables, or milestones). Consultant shall be compensated on a time and materials basis only. Consultant provides contract talent solutions and does not provide deliverables. City agrees to hold in confidence the identity of any Professional and the Professional's resume, social security number and other legally protected personal information, and City agrees to implement and maintain reasonable security procedures and practices to protect such information from unauthorized access, use, modification or disclosure. Any respective obligations of Consultant or City hereunder which by their nature would continue beyond the termination, cancellation or expiration of this Agreement shall survive such termination, cancellation or expiration.

d. Notwithstanding anything to the contrary in this Agreement, Consultant shall not be liable for, or have any duty of indemnification with respect to any acts or omissions of City. Notwithstanding anything in this Agreement to the contrary, Consultant's maximum liability for any specific engagement, in any case, will not exceed the fees paid to Consultant for that engagement, except that this limitation on liability shall not apply to any indemnity obligations that Consultant may have under this Agreement.

e. This Agreement is only applicable to, and the only Robert Half International Inc. branch and practice group(s) obligated under this Agreement are, the administrative & customer service and finance & accounting contract talent practice group(s) of the branch office located at 3633 Inland Empire Blvd, Suite 955, Ontario, CA 91764-4922.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN CITY OF UPLAND
AND ROBERT HALF INTERNATIONAL INC.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF UPLAND

ROBERT HALF INTERNATIONAL INC.^{EOE}

By: _____


Michael Blay
City Manager

By: _____



Its: Regional Vice President

Printed Name: Damian Garcia

**(Two Signatures of Corporate Offices Required
for Corporations)**


By: _____

Its: District President

Printed Name: Cyndi Karapogosian

ATTEST:

By: _____


Keri Johnson,
City Clerk

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BETWEEN CITY OF UPLAND
AND ROBERT HALF INTERNATIONAL INC.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

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ROBERT HALF INTERNATIONAL INC.^{EOE}

By: _____

Michael Blay
City Manager

By: _____

Its: Regional Vice President

Printed Name: Damian Garcia

**(Two Signatures of Corporate Offices Required
for Corporations)**

By: _____



Its: District President

Printed Name: Cyndi Karapogolian

ATTEST:

By: _____

Keri Johnson,
City Clerk

EXHIBIT A

Scope of Services

Consultant shall use best efforts to assign Professionals to perform the job functions requested by City. Consultant shall send City a job arrangement letter at the start of each assignment setting forth the Professional's name, the estimated start date, the hourly bill rate, and the job function.

EXHIBIT B

Schedule of Charges/Payments

Hourly rates for all assignments will be agreed on a case-by-case basis. Professionals will present a time sheet or an electronic time record to City for verification and approval at the end of each week. Consultant will invoice City on a weekly cycle for the total hours worked. Consultant's invoices are due within 30 days of receipt, including applicable sales and service taxes all of which are payable by City. Consultant will include supporting documentation with each invoice. This is a time-and-materials contract. If applicable, overtime will be billed at 1.50 times the normal billing rate. Federal law defines overtime as hours in excess of 40 hours per week, state laws vary. If state law requires double time pay, the double time hours will be billed at 2.00 times the normal billing rate. Consultant may charge City a fee for the provision of equipment or technology, if City requests that Professional use equipment or technology provided by Consultant. Consultant may also increase Consultant's rates to reflect increases in Consultant's cost of doing business, including costs associated with higher wages for workers and/or related taxes, benefits or other costs. Consultant will provide 14 days prior written notice of technology charges and/or increases in rates. Any increase in rates will be prospective, starting as of the effective date Consultant specifies.